

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

SHAMROCK CARTAGE, INC.

and

Case 09-CA-219396

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS (IBT), LOCAL UNION NO. 413

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by International Brotherhood of Teamsters (IBT), Local Union No. 413 (Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Shamrock Cartage, Inc. (Respondent) has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Union on May 1, 2018, and a copy was served on Respondent by U.S. mail on the same date.

(b) The first amended charge in this proceeding was filed by the Union on June 12, 2018, and a copy was served on Respondent by U.S. mail on June 13, 2018.

(c) The second amended charge in this proceeding was filed by the Union on June 20, 2018, and a copy was served on Respondent by U.S. mail on June 22, 2018.

2. (a) At all material times, Respondent has been a corporation with an office and place of business in Rockdale, Illinois, and has been engaged in truck spotting and hostler services.

(b) In conducting its operations during the 12-month period ending June 30, 2018, Respondent performed services valued in excess of \$50,000 in states other than the State of

Illinois, including work done at the Kraft Heinz Foods Company (Kraft) located in Groveport, Ohio and the Pepsi Company (Pepsi) located in Obetz, Ohio.

(c) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

3. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Dan O'Brien	- Co-Owner
Matt Harper	- Co-Owner
Michael Harper	- General Manager
Brian Williamson	- Site Supervisor

5. About April 9, 2018, Respondent, by Brian Williamson, at Respondent's Kraft jobsite, threatened employees with the more onerous working condition of working with "bad workers" because the Union rejected Respondent's proposal on discipline during contract negotiations.

6. (a) About April 9, 2018, Respondent suspended its employee Shane Smith.

(b) About April 13, 2018, Respondent discharged its employee Shane Smith.

(c) Respondent engaged in the conduct described above in paragraphs 6(a) and (b) because the named employee of Respondent formed, joined, and assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

(d) Respondent engaged in the conduct described above in paragraphs 6(a) and (b) because the named employee gave testimony to the Board in the form of an affidavit, was named

in a charge in Cases 09-CA-204232 and 09-CA-207419, and cooperated in a Board investigation in Cases 09-CA-204232, 09-CA-205156 and 09-RC-203855.

7. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time yard spotter/hostler employees employed by the Employer at the DHL facility located at 2842 Spiegel Drive, Groveport, Ohio and at the Ryder Logistics facility located at 3880 Groveport Road, Obetz, Ohio, excluding all Office clerical employees, all professional employees, guards and supervisors as defined in the Act.

(b) Since about November 16, 2017, and at all material times, Respondent has recognized the Union as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in a recognition agreement dated November 16, 2017.

(c) At all times since November 16, 2017, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

8. (a) The subject set forth above in paragraph 6(a) relates to wages, hours, and other terms and conditions of employment of the Unit and is a mandatory subject for the purposes of collective bargaining.

(b) Respondent engaged in the conduct described above in paragraph 6(a) without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct.

9. By the conduct described above in paragraph 5, Respondent has been interfering with, restraining, and coercing employees in the exercise of their rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

10. By the conduct described above in paragraphs 6(a), (b) and (c), Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its

employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

11. By the conduct described above in paragraphs 6(a), (b) and (d), Respondent has been discriminating against employees for filing charges or giving testimony under the Act in violation of Section 8(a)(1) and (4) of the Act.

12. By the conduct described above in paragraphs 6(a) and 8(b), Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

13. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before August 2, 2018 or postmarked on or before August 1, 2018**. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon

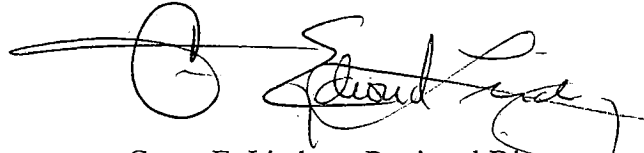
(Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **October 10, 2018, 9 a.m.** at **Room 3003, John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The

procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: July 19, 2018

A handwritten signature in black ink, appearing to read "Garey E. Lindsay", written over a horizontal line.

Garey E. Lindsay, Regional Director
Region 9, National Labor Relations Board
3003 John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271

Attachments